

Dixon

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Vilmos Kéri et al.

Serial No. 09/578,587

Filed on April 19, 2000

For PROCESS FOR THE ISOLATION AND PURIFICATION, etc.

Attorney's Docket 0100-004

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**Attn. Mr. Bruce Kisliuk, Director GAU 1600**  
Commissioner of Patents  
Washington DC 20231

Sir:

**Request for Reconsideration of Decision on Petition**

This request is made due to errors contained in the decision on petition mailed on September 20, 2002.

It is respectfully submitted that, notwithstanding the statements in the decision on petition, the making "final" the examiner's rejection mailed on May 1, 2002 was premature for the two independent reasons specified below.

In the rejection mailed on May 1, 2002 the examiner refused to consider reference in the previous response by the applicant to an earlier declaration that was filed in a predecessor application to the present one, the continuity of which was enjoyed by the present application. No copy of the declaration was submitted, because the examiner was supposed to have known what went on in the predecessor applications copies of which were also available to her. When in his response after the premature final rejection the applicant submitted a second copy of the earlier declaration, in the first Advisory Action the examiner refused to consider the declaration. It was only when in response to that Advisory Action the petition was originally filed, the examiner relented and in retrospect considered the declaration which should have been considered prior to the issuance of the final rejection. That is one reason for the premature nature of the finality of the rejection of May 1, 2002.

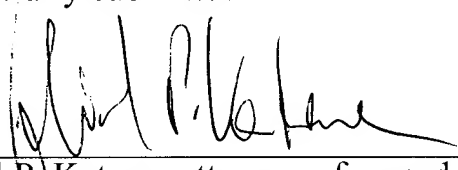
The other reason for the prematurity of the finality of the rejection mailed on May 1, 2002 is that a brand new rejection was made for

the very first time in the first Advisory Action.. Notwithstanding any erroneous statements to the contrary, there was ever any substantive rejection on account of using the terminology "consisting essentially of" in claim 12 (or anywhere else). That claim language was originally submitted on September 6, 2001. Not one word of objection was made to it in the final rejection of May 1, 2002. It was only for the first time in the initial Advisory Action that a rejection was made based on that previously nonobjectionable language. Advisory Actions are not the occasion for making substantive new rejections on the merits, therefore, that substantive new rejection in the first Advisory Action was untimely and belated. This is another, separate and independent reason for the prematureness of the finality of the rejection mailed on May 1, 2002.

Accordingly, it is respectfully requested that the decision on petition be reconsidered, and the finality of the rejection mailed on May 1, 2002, be withdrawn, and its mailing date be restarted to run from the date of the decision of this Request for Reconsideration.

Respectfully submitted

Customer No.address 23622

  
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Gabriel P. Katona, attorney of record

It is hereby certified that this is being faxed to (703)305-7230 on October 1, 2002.

*Francene Sawyer*